

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 15145US02)

*In the Application of:*

**Arun Rao**

**Serial No.: 10/717,418**

**Filed: November 19, 2003**

**For: REDUCTION OF MEMORY  
REQUIREMENTS BY DE-INTERLEAVING  
AUDIO SAMPLES WITH TWO BUFFERS**

**Examiner: Flanders, Andrew C.**

**Group Art Unit: 2614**

**Confirmation No.: 7778**

---

Transmitted via the Office electronic filing system June 10, 2010.

**REQUEST FOR RECONSIDERATION OF  
USPTO RECALCULATION OF  
PATENT TERM ADJUSTMENT IN VIEW OF WYETH**

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

Sir:

The applicant respectfully requests reconsideration of the patent term adjustment indicated in the enclosed print-out of the current United States Patent and Trademark Office (USPTO) patent term adjustment determination from PAIR and the *Decision On Request For Recalculation Of Patent Term Adjustment In View Of Wyeth And Notice Of Intent To Issue Certificate Of Correction* (PTOL-549G (04/10)) ("the Decision") mailed May 10, 2010, respecting the present application. This application for patent term adjustment is being filed within the later of one month or 30 days after the mailing date of the Decision.

This request is accompanied by the fee set forth in § 1.18(e) (\$200.00).

This request includes below a statement of the facts involved in sufficient detail to allow the United States Patent and Trademark Office (USPTO) to verify the correct patent term adjustment.

The Applicant's calculated patent term adjustment is 1758 days. The Decision reported a patent term adjustment of 1755 days. Thus, the Applicant is requesting an increase in the patent term adjustment.

The basis under 37 CFR § 1.702 for the adjustment is as follows:

### **Positive Patent Term Adjustment**

None

### **Reductions in Patent Term Adjustment**

#### **Removing Overlap**

- No overlap of two or more grounds of USPTO delay has been found.

#### **Three Months to Respond to Office actions (37 CFR § 1.704(b))**

The applicant is contesting the following application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment in the present application.

#### **Period from Saturday, June 28, 2008 to Monday, June 30, 2008**

- The pertinent Office action was mailed on March 28, 2008,
- The date three months after the mailing date of the Office action is Saturday, June 28, 2008 (BEGIN DATE, stating day of the week and if it is a holiday))
- The response to the Office action was filed on Monday, June 30, 2008 (END DATE, stating day of the week)
- The reduction in the patent term adjustment proposed by the USPTO is 2 days

The Applicant's position is that the present Office action response filed on the first business day after a deadline falling on a weekend or holiday is not late,

establishing the correct reduction in patent term adjustment is 0 days. The basis for this position is 37 CFR § 1.6(a)(1), which states in relevant part: “The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia,” and 37 CFR § 1.7(a), which states in relevant part: “When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday.” In this case, 37 CFR § 1.7(a) is applicable because the last day set by statute (35 USC § 154(b)(2)(C)(ii)) for taking the action of filing a response to an Office action without being “deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application,” falls on a Saturday, Sunday, or on a Federal holiday within the District of Columbia.

### **Incorrect PTA Reduction Calculation for Paper After Allowance**

#### **37 CFR § 1.704(c)(10)**

The applicant is contesting the following application(s) of 37 CFR § 1.704(c)(10) to reduce the patent term adjustment in the present application due to a paper filed after the Notice of Allowance has been mailed.

The USPTO is believed to be characterizing the new drawings filed on December 16, 2009, as a paper delaying prosecution. The USPTO is believed to be characterizing February 3, 2010, the day after the patent issued, as the date of response to this paper. The reduction of PTA asserted by the USPTO is 49 days.

The Applicant’s position is that this determination is incorrect. The correct amount of reduction is submitted by the Applicant to be 48 days, which is the number of days between December 16, 2009, and the patent issue date, February 2, 2010, but not exceeding four months.

### **Net Patent Term Adjustment**

The changes requested by the Applicant to the USPTO patent term adjustment determination in the DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION (PTOL-549G (04/10)) ("the Decision") mailed May 10, 2010, are as follows:

- **Three Months to Respond to Office actions**  
(37 CFR § 1.704(b))

	<b>Patent Term Adjustment (days)</b>
<b>USPTO Calculation in Recalculation Request</b>	2
<b>Applicant Calculation</b>	0

### **Reductions in Patent Term Adjustment**

- **Alleged Submission of a Delaying Paper After Allowance**  
37 CFR § 1.704(c)(10)

	<b>Patent Term Adjustment (days)</b>
<b>USPTO Calculation in Recalculation Request</b>	49
<b>Applicant Calculation</b>	48

### **Conclusion**

The Applicant requests modification of the patent term adjustment as indicated above. As shown in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR, the net patent term adjustment proposed by the Applicant is thus 1758 days. Please charge any fees or credit any

overpayment of fees presently required to McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: June 10, 2010

By: Mirut P. Dalal

Mirut P. Dalal

Reg. No. 44,052

Attorney for Applicant(s)

McANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street  
Chicago, Illinois 60661  
Telephone: (312) 775-8000

## PATENT TERM ADJUSTMENT SPREADSHEET

Ser. No. 10/717,418

Docket No. 15145US02

PTO Calculation

Applicant Calculation

DATE	EVENT	PTO Delay	Appl. Delay	PTO Delay	Appl. Delay
Wednesday, May 05, 2010	Petition Decision - Granted				
Wednesday, May 05, 2010	Petition Entered				
Wednesday, February 03, 2010	Day After Patent Issued				
Tuesday, February 02, 2010	Recordation of Patent Grant				
Tuesday, February 02, 2010	Mailed				
Tuesday, February 02, 2010	PTA 36 Months	960			
Tuesday, February 02, 2010	Patient Issue Date Used in				
Wednesday, January 13, 2010	PTA Calculation				
Tuesday, December 29, 2009	Issue Notification Mailed				
Tuesday, December 29, 2009	Dispatch to FDC				
Monday, December 21, 2009	Application Is Considered				
Wednesday, December 16, 2009	Ready for Issue				
Wednesday, December 16, 2009	Response to Reasons for				
Wednesday, December 16, 2009	Allowance				
Wednesday, December 16, 2009	Issue Fee Payment Verified				
Wednesday, December 16, 2009	Workflow - Drawings				
Wednesday, December 16, 2009	Finished	49		48.00	
Wednesday, December 16, 2009	Issue Fee Payment Received				
Tuesday, November 03, 2009	TC Return to Pubs				
Tuesday, November 03, 2009	Mail Miscellaneous				
Tuesday, November 03, 2009	Communication to Applicant				


Monday, November 02, 2009	Miscellaneous Communication to Applicant - No Action Count
Monday, September 28, 2009	Pubs Case Remand to TC
Monday, September 14, 2009	Document Verification
Monday, September 14, 2009	Notice of Allowance Data
Monday, September 14, 2009	Verification Completed
Monday, September 14, 2009	Examiner's Amendment
Monday, September 14, 2009	Appeal Brief Review
Thursday, July 09, 2009	Communication
Thursday, July 09, 2009	Appeal Brief Review
Wednesday, June 17, 2009	Complete
Wednesday, June 17, 2009	Date Forwarded to Examiner
Wednesday, June 17, 2009	Appeal Brief Filed
Wednesday, June 17, 2009	Request for Extension of Time - Granted
Tuesday, February 17, 2009	Notice of Appeal Filed
Tuesday, February 17, 2009	Request for Extension of Time - Granted
Wednesday, January 14, 2009	Three months after rejection
Tuesday, October 14, 2008	Mail Final Rejection (PTOL - 326)
Friday, October 10, 2008	Final Rejection
Wednesday, October 08, 2008	Case Docketed to Examiner in GAU
Saturday, August 09, 2008	Date Forwarded to Examiner
Monday, June 30, 2008	Response after Non-Final Action
Saturday, June 28, 2008	Three months after rejection

Friday, March 28, 2008	Mail Non-Final Rejection	880
Tuesday, March 25, 2008	Non-Final Rejection	880
Tuesday, February 05, 2008	Transfer Inquiry to GAU	880
Monday, February 04, 2008	Transfer Inquiry to GAU	880
Wednesday, November 07, 2007	Transfer Inquiry to GAU	880
Friday, September 14, 2007	Transfer Inquiry to GAU	880
Tuesday, April 03, 2007	Case Docketed to Examiner in GAU	880
Sunday, November 19, 2006	THREE YEAR DATE	880
Wednesday, June 21, 2006	Case Docketed to Examiner in GAU	880
Tuesday, March 21, 2006	Case Docketed to Examiner in GAU	880
Thursday, June 30, 2005	Case Docketed to Examiner in GAU	880
Friday, May 25, 2005	Case Docketed to Examiner in GAU	880
Wednesday, April 06, 2005	Miscellaneous Incoming Letter	880
Wednesday, April 06, 2005	IFW TSS Processing by Tech Center Complete	880
Wednesday, January 19, 2005	Case Docketed to Examiner in GAU	880
Tuesday, October 26, 2004	14 MONTH DATE	880
Tuesday, October 26, 2004	Application Return from OIPE	880
Tuesday, October 26, 2004	Application Return TO OIPE	880
Tuesday, October 26, 2004	Application Return from OIPE	880
Tuesday, October 26, 2004	Application Is Now Complete	880

Tuesday, October 26, 2004	Application Return TO OIPE	
Tuesday, October 26, 2004	Application Return from OIPE	
Tuesday, October 26, 2004	Application Is Now Complete	
Tuesday, October 26, 2004	Application Return TO OIPE	
Monday, October 25, 2004	Application Return from OIPE	
Monday, October 25, 2004	Application Is Now Complete	
Monday, October 25, 2004	Pre-Exam Office Action Withdrawn	
Monday, October 25, 2004	Application Return TO OIPE	
Thursday, July 29, 2004	Change in Power of Attorney (May Include Associate POA)	
Wednesday, March 31, 2004	Application Dispatched from OIPE	
Wednesday, March 31, 2004	Application Is Now Complete	
Friday, March 12, 2004	Additional Application Filing Fees	
Friday, March 12, 2004	Applicant has submitted new drawings to correct	
Friday, March 12, 2004	Corrected Papers problems	
Wednesday, February 18, 2004	Corrected Paper	
Wednesday, February 04, 2004	Cleared by OIPE CSR	
Tuesday, December 23, 2003	IFW Scan & PACR Auto Security Review	


Wednesday, November 19, 2003	Oath or Declaration Filed (Including Supplemental)		
Wednesday, November 19, 2003	Initial Exam Team nn		
		PTO (Days)	APPL (Days)
		1840	85
<b>PTA</b>			<b>1755 Days</b>
>>>>>>>>			

	PTO (Days)	APPL (Days)
	1840	82
<b>1758 Days</b>		



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
SUITE 3400  
CHICAGO, IL 60661

Mail Date: 05/10/2010

Applicant	:	Arun Rao	
Patent Number	:	7657336	: DECISION ON REQUEST FOR
Issue Date	:	02/02/2010	: RECALCULATION OF PATENT
Application No	:	10/717,418	: TERM ADJUSTMENT IN VIEW
Filed	:	11/19/2003	: OF WYETH AND NOTICE OF INTENT TO
			: ISSUE CERTIFICATE OF CORRECTION
			:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1755** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

10/717,418	REDUCTION OF MEMORY REQUIREMENTS BY DE-INTERLEAVING AUDIO SAMPLES WITH TWO BUFFERS	06-07- 2010:14:28:37
------------	---	-------------------------

## Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/717,418

Filing or 371(c) Date:	11-19-2003	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	02-02-2010	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total PTA (days):	1755
USPTO Adjustment(days):	-	Explanation Of Calculations	

## Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
05-05-2010	Petition Decision - Granted		
05-05-2010	Petition Entered		
02-02-2010	Recordation of Patent Grant Mailed		
01-13-2010	Issue Notification Mailed		
02-02-2010	PTA 36 Months	960	
02-02-2010	Patent Issue Date Used in PTA Calculation		
12-29-2009	Dispatch to FDC	↑	
12-29-2009	Dispatch to FDC	↑	
12-16-2009	Response to Reasons for Allowance	↑	
12-21-2009	Application Is Considered Ready for Issue	↑	
12-16-2009	Issue Fee Payment Verified	↑	
12-16-2009	Workflow - Drawings Finished	49	
12-16-2009	Issue Fee Payment Received	↑	
11-03-2009	TC Return to Pubs	↑	
11-03-2009	Mail Miscellaneous Communication to Applicant	↑	
11-02-2009	Miscellaneous Communication to Applicant - No Action Count	↑	
09-28-2009	Pubs Case Remand to TC	↑	
09-14-2009	Document Verification	↑	
09-14-2009	Notice of Allowance Data Verification Completed	↑	
09-14-2009	Examiner's Amendment Communication	↑	
07-09-2009	Appeal Brief Review Complete	↑	
07-09-2009	Date Forwarded to Examiner	↑	
06-17-2009	Appeal Brief Filed	↑	
06-17-2009	Request for Extension of Time - Granted	↑	
02-17-2009	Notice of Appeal Filed	34	
02-17-2009	Request for Extension of Time - Granted	↑	
10-14-2008	Mail Final Rejection (PTOL - 326)	↑	
10-10-2008	Final Rejection	↑	
10-08-2008	Case Docketed to Examiner in GAU		
08-09-2008	Date Forwarded to Examiner		

06-30-2008	Response after Non-Final Action	2
03-28-2008	Mail Non-Final Rejection	880
03-25-2008	Non-Final Rejection	↑
02-05-2008	Transfer Inquiry to GAU	↑
02-04-2008	Transfer Inquiry to GAU	↑
11-07-2007	Transfer Inquiry to GAU	↑
09-14-2007	Transfer Inquiry to GAU	↑
04-03-2007	Case Docketed to Examiner in GAU	↑
06-21-2006	Case Docketed to Examiner in GAU	↑
03-21-2006	Case Docketed to Examiner in GAU	↑
05-20-2005	Miscellaneous Incoming Letter	↑
06-30-2005	Case Docketed to Examiner in GAU	↑
05-25-2005	Case Docketed to Examiner in GAU	↑
04-06-2005	IFW TSS Processing by Tech Center Complete	↑
04-06-2005	Case Docketed to Examiner in GAU	↑
11-19-2003	Oath or Declaration Filed (Including Supplemental)	↑
10-26-2004	Application Return from OIPE	↑
10-26-2004	Application Return TO OIPE	↑
10-26-2004	Application Return from OIPE	↑
10-26-2004	Application Is Now Complete	↑
10-26-2004	Application Return TO OIPE	↑
10-26-2004	Application Return from OIPE	↑
10-26-2004	Application Is Now Complete	↑
10-26-2004	Application Return TO OIPE	↑
10-25-2004	Application Return from OIPE	↑
10-25-2004	Application Is Now Complete	↑
10-25-2004	Pre-Exam Office Action Withdrawn	↑
10-25-2004	Application Return TO OIPE	↑
07-29-2004	Change in Power of Attorney (May Include Associate POA)	↑
03-31-2004	Application Dispatched from OIPE	↑
03-31-2004	Application Is Now Complete	↑
03-12-2004	Additional Application Filing Fees	↑
03-12-2004	Applicant has submitted new drawings to correct Corrected Papers problems	↑
02-18-2004	Corrected Paper	↑
02-04-2004	Cleared by OIPE CSR	↑
12-23-2003	IFW Scan & PACR Auto Security Review	↑
11-19-2003	Initial Exam Team nn	↑

---

[Close Window](#)